IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

SUIT NO.673 OF 1995

Advanced Ocean System Private Limited .. Plaintiffs
v/s.
Vijay K. Chittal .. Defendant

Mr.D.K. Aliwadia i/by M/s. Arvind Rathod & Co. for the plaintiffs.
Mr. Anthony Trindade- Director of plaintiff-company present..

CORAM : A.M. KHANWILKAR, J.
DATED : 23RD JULY, 2007

P.C.

This suit is placed under caption "undefended suit" in terms of order dated 19th April, 2000. However, none appears for the defendant. No written statement has been filed on behalf of the defendant so far.

2. The plaintiffs claim to have given advanced amount to the defendant. As the defendant did not repay the advanced amount, the plaintiffs adjusted certain amount against the wages of the defendant. The defendant at the end of October, 1994 was still liable to pay a sum of Rs.3,14,298/- to the plaintiffs. Inspite of repeated demands as the defendant did not discharge that obligation, the plaintiffs have approached this court for the following reliefs:-

(a) that the Defendant be ordered and decreed to pay the plaintiffs a sum of Rs.4,14,149/- as per the particulars Exhibit `H' hereto with interest on Rs.3,14,298/- the rate of 24% per annum from the date of suit till payment and/or realisation.

(b) for costs of the suit;

(c) for such further and reliefs as this Honourable Court deems fit in nature and circumstances of the case.

3. As mentioned earlier, the defendant has not bothered to appear nor filed written statement. The plaintiffs, on the other hand, have filed affidavit of evidence sworn by Anthony Trindade, Director of the plaintiffs dated 26th March, 2007. He is personally present in court and willing to offer himself for cross-examination. Besides filing affidavit of evidence to reiterate the position stated in the plaint, the plaintiffs have also relied on the original documents, compilation whereof has been tendered to the court. The documents pressed into service also support the claim of the plaintiffs. There is nothing on record to doubt the correctness of the stand taken by the plaintiffs. Obviously, it appears that the defendant has no plausible defence for which reason he has not appeared in the present proceedings inspite of service.

4. In the circumstances, I proceed to dispose of the suit in exercise of the powers under Order 8 Rule 10 C.P.C. in the following terms:

Defendant is directed and ordered to pay to the plaintiffs sum of Rs.3,14,298/- which is the principal outstanding amount and interest thereon at the rate of 12% per annum from 19th October, 1994 till the institution of the suit i.e. 12th January, 1995 and further interest at the rate of 6% per annum from the date of institution of the suit till payment and realisation of the amount.

Plaintiffs are also entitled for costs of this suit.

Decree be drawn accordingly.

(A.M. KHANWILKAR, J.)